Criminal Misc.No.74035-M of 2006 (O&M)

*****

Krishan Lal & others Vs. State of Punjab

Present: None for the petitioners.

Mr.M.C.Berry, Senior DAG, Punjab,
for the State.

****

RANJIT SINGH, J.

This order will dispose of Criminal Misc.Nos.74035-M of 2006 (Krishan Lal Vs. State of Punjab) and 13354-M of 2007 (Madhu Bala Vs. State of Punjab). The facts are being taken from Crl.Misc.No.74035-M of 2006.

This petition was filed basically for direction to the trial court to decide the Criminal Case No.47 pending since the year 1995. The fact that criminal case instituted in the year 1995 is found pending till the year 2006 is itself alarming. The trial in this case is in progress since January, 1996. Three prosecution witnesses were recorded upto 12.5.1996. Whereafter statements of Investigating Officer and Joginder Pal were recorded on 12.9.1996. Four more witnesses were recorded by 10th of April, 1997. Only complainant Madhu Bala remained to be examined. It is startling to note that case thereafter remained pending for cross-examination of one witness alone from the year 1997 onwards till filing of petition. Her examination-in-chief was over by 8.10.1999. Some reasons are disclosed for which this case remained pending for examination and cross-examination of the complainant. Finding this situation and position to be un-acceptable, Sessions Judge, Gurdaspur was asked to obtain reasons for this inordinate delay in the pendency of the case for conclusion of examination of one witness by the trial Magistrate. The reasons are furnished through his letter dated 26.2.2007. It is disclosed that this case

came up for hearing before present Judicial Magistrate on 17.4.2004. The Magistrate has also forwarded zimni orders starting from 1999 onwards. He has blamed both the complainant as well as the accused party for this delay in disposal of the case.

While this petition was pending adjudication, complainant Madhu Bala filed an application for being impleaded as respondent in the petition. She also filed reply to the main petition. Complainant Madhu Bala, appearing in person, sought to contend that petitioners are responsible for this delay and are also trying to mislead this court. She also filed another Criminal Misc.Petition, which was also ordered to be heard alongwith this case. Not only this, she came to file another petition seeking stay of the pronouncement of the judgment till her petition filed before the court is decided.

The zimni orders, copies of which have been forwarded by the Judicial Magistrate, would show that basically the complainant Madhu Bala had been filing different applications and petitions without appreciating the resultant effect. The accused are found to be no better as number of adjournments in this case are attributed to their conduct. Realising that this court is seized of this issue and had taken notice of the delay in disposal of this criminal petition, some urgency appears to have been shown by the Magistrate. Accordingly, when the case is taken up for hearing today, Mr.Berry has informed that the petitioners have been acquitted. Still, the complainant Madhu Bala insisted that her petition be also heard. Though explained in the court, but complainant is unable to understand that she will have now to take recourse against the order passed by the trial court. She continues to persist with her submissions that petitioners have been

able to mislead this court and correct facts in regard to the delay are also not placed before this court even by the trial Court. Since the main case stood decided, no further orders are need to be made in the present petition. At the same time, this delay on the part of trial court to conclude this case just to conclude the cross-examination of one witness for number of years cannot be ignored. Even if the parties were at their combatant best in prolonging these proceedings, the court could not be expected to sit as a silent spectator and watch this combat as a referee. In ***Ram Chander Versus The State of Haryana, 1981 Crl.L.J.609,*** Hon'ble Supreme Court, while talking about the role of a trial Judge observed as under:-

> "The adversary system of trial being what it is, there is an unfortunate tendency for a judge presiding over a trial to assume the role of a referee or an umpire and to allow the trial to develop into a contest between the prosecution and the defence with the inevitable distortions flowing from combative and competitive elements entering the trial procedure. If a Criminal Court is to be an effective instrument in dispensing justice, the presiding judge must cease to be a spectator and a mere recording machine. He must become a participant in the trial by evincing intelligent active interest by putting questions to witnesses in order to ascertain the truth."

The trial Magistrate(s) dealing with the case can certainly be expected to intervene judiciously. They have allowed the trial to drift endlessly and it has seen an end only when the court took notice

of the delay. The trial Magistrate(s) dealing with the case would owe an explanation as to how and why this case took 11 years for conclusion and 8 years for cross-examination of one witness. It is alarming. Let the detailed explanation of all the Magistrates, who have dealt with the case be obtained through Sessions Judge, Gurdaspur and placed before the Administrative Judge of the District to see if any action is called for against any of the officers dealing with the case. The petition otherwise has become infructuous and is accordingly dismissed.

March 14, 2007 (RANJIT SINGH)
ramesh JUDGE